

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105

File No. RH04041574

Date: February 17, 2005

Proposed Amendment of Section 2632.5(c)(1)(A)
Ordering of Motor Vehicle Reports

INITIAL STATEMENT OF REASONS

California Insurance Commissioner John Garamendi will hold a public hearing to consider a proposed amendment to Title 10, California Code of Regulations, Section 2632.5(c)(1)(A) clarifying that, to determine a driver's driving safety record, each insurer shall obtain and use a Motor Vehicle Report ("MVR") when an automobile insurance policy is issued, when a new driver is added to a policy, and no less frequently than every 36 months thereafter.

STATEMENT OF SPECIFIC PURPOSE

California Insurance Code Section 1861.02(a) provides, in relevant part:

Rates and premiums for an automobile insurance policy, as described in subdivision (a) of Section 660, shall be determined by application of the following factors in decreasing order of importance:

- (1) The insured's driving safety record.

California Insurance Code Section 1861.025 provides, in relevant part:

A person is qualified to purchase a Good Driver Discount policy if he or she meets all of the following criteria:

- (a) He or she has been licensed to drive a motor vehicle for the previous three years.
- (b) During the previous three years, he or she has not done any of the following [specified acts].

Title 10, California Code of Regulations, Section 2632.5(c) provides, in relevant part:

An insurer's class plan, and all rates and premiums determined in accordance therewith, shall utilize the following rating factors (the "Mandatory Factors") for bodily injury liability, property damage liability, medical payments, uninsured motorist, collision, and comprehensive coverages:

(1) “First Mandatory Factor,” as used in subchapter 4.7, is the insured’s driving safety record per California Insurance Code Section 1861.02(a)(1). This factor means the following for the driver rated on the insured vehicle:

(A) the public record of traffic violation convictions available from the California Department of Motor Vehicles, together with similar public records of traffic violation convictions that are available from other jurisdictions;

Some insurers do not order MVRs on a regular or consistent basis. Existing law does not explicitly establish time periods within which insurers shall order MVRs to rate and underwrite an automobile insurance policy. The proposed regulation would do so, ensuring that drivers' rates and premiums are actually determined based upon their driving safety record and that all Good Drivers actually receive a Good Driver Discount Policy, as required by California law.

IDENTIFICATION OF STUDIES AND REPORTS

The Department did not rely upon any technical, theoretical and/or empirical study, report or similar document in proposing this regulation.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of the proposed regulation would not mandate the use of specific procedures, technologies, or equipment.

CONSIDERATION OF ALTERNATIVES

The Department considered alternative time periods, but concluded that the selected time period strikes a reasonable balance between the statutory requirements and the costs involved. The Department has concluded that it must adopt a regulation regarding ordering MVRs because some insurers maintain that the Department lacks explicit regulatory authority to require that MVRs be ordered at specific intervals.

IMPACT ON BUSINESS

The Commissioner has determined that the proposed regulation does not have a significant adverse impact on business because the regulation merely clarifies existing statutory requirements, and that the proposed regulation does not affect small businesses.

Date: February 17, 2005

JOHN GARAMENDI
Insurance Commissioner

By: /s/
Elizabeth Mohr
Assistant Chief Counsel